

REMARKS

This communication is a full and timely response to the non-final Office Action dated March 29, 2005, the period of response being extended through a Petition for Three-Month Extension of Time submitted herewith. By this amendment, claims 3, 6, 8, and 14 have been amended and claim 7 cancelled. Claims 1, 4, 5 and 10 to 13 were previously canceled. Claims 2 and 9 remain as previously presented. Thus, claims 2, 3, 6, 8, 9 and 14 are pending for reconsideration, with claims 6 (method) and 8 (apparatus) being independent.

Previous claims 2, 3, 8 and 9 were rejected as anticipated by Amano, No. 6, 190,374 for the reasons stated on pages 2 and 3 of the Action. Claims 6, 7 and 14 were rejected as being unpatentable over Amano in view of allegedly common procedures as discussed on pages 3 and 4 of the Action. These rejections are respectfully traversed. Without acquiescence in or agreement with those rejections, however, the pending claims are amended as noted to clarify the invention and more clearly distinguish the claimed invention from the Amano art, whether taken along or in combination with the allegedly common procedures. It is noted that no reference was provided to support the factual claim for the allegedly common procedures.

Amano et al. (USP6,190,374) disclose an apparatus for operating upon a cornea for correcting not only hypermetropia or myopia but also presbyopia. In this apparatus, a specific mask for presbyopic correction is prepared, and a minus degree of a refractive diopter in a near vision zone is determined with respect to a refractive diopter in a far vision zone, whereby a correction pattern for presbyopia is determined. However, since presbyopic correction is for forming a multifocal eye optical system which requires target diopters in the far vision and near vision zones, its correction pattern can be diverse as known by thinking of design of a multifocal spectacle lens. Amano et al. merely use one correction pattern to perform such a correction that a cornea is made into a shape determined by a difference of the target diopter in the near vision zone with respect to that

in the far vision zone. See the Abstract of Amano et al. and col. 6, line 40 et seq. for example.

On the other hand, considering that the correction pattern can affect psychostatus of a patient and an corneal refractive surgery apparatus can provide an irreversible change to a patient's cornea, the present invention is intended to determine an appropriate postoperative shape in view of a personal and psychological reaction from the patient, and is not intended to use one correction pattern and automatically determine the postoperative shape merely based on a refractive power examination of a patient's eye, as conventionally proposed. Amano et al. do not teach such a technical idea nor suggest adoption of a process of using a contact lens in order to consider the personal and psychological reaction from the patient. As an aside, it may be noted that Amano et al. is assigned to the assignee of this application

Claim 6, for example, thus is amended to refer to a correction data determining method of determining refractive correction data for a corneal refractive surgery apparatus with a laser beam causing ablation of corneal tissue of a patent's eye (preamble of claim 6). A first correction pattern is recited as "the first correction pattern of the first contact lens being created in association with correction patterns available with the corneal refractive surgery apparatus", and a second correction pattern is recited as "the second correction pattern of the second contact lens being created in association with the correction patterns available with the corneal refractive surgery apparatus" Similar language is added to the apparatus claim 8.

Reference may also be made to the Amendment After Final Action filed on March 8, 2004 referring to a deficiency in Amano with respect to the recitation of a "first contact lens".

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. WEN-008 from which the undersigned is authorized to draw.

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Respectfully submitted,
By _____
Ronald P. Kananen
Registration No.: 24,104
Attorney for Applicant

RADER, FISHMAN & GRAUER, PLLC
Lion Building
1233 20th Street, N.W., Suite 501
Washington, D.C. 20036
Tel: (202) 955-3750
Fax: (202) 955-3751
Customer No. 23353

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